

**UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION**

DAVID ESCLUSA,

Plaintiff,

v.

DYNAMIC RECOVERY
SOLUTIONS, LLC,

Defendant.

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No. 6:16-cv-409-MGL

PLAINTIFF’S COMPLAINT

Plaintiff, DAVID ESCLUSA (“Plaintiff”), through his attorney, Chauntel D. Bland, Esquire, alleges the following against Defendant, DYNAMIC RECOVERY SOLUTIONS, LLC (“Defendant”):

INTRODUCTION

1. Plaintiff’s Complaint is based on the Fair Debt Collection Practices Act, 15 U.S.C. 1692 et seq. (“FDCPA”).

JURISDICTION AND VENUE

2. This Court has jurisdiction under 28 U.S.C. §§1331, 1337, 1367, and 15 U.S.C. §1692k.
3. Jurisdiction of this court arises pursuant to 15 U.S.C. 1692k(d), which states that such actions may be brought and heard before “any appropriate United States district court without regard to the amount in controversy,” and 28 U.S.C. 1367 grants this court supplemental jurisdiction over the state claims contained within.

4. Venue and personal jurisdiction in this District are proper because Defendant does or transacts business within this District, and a material portion of the events at issue occurred in this District.

PARTIES

5. Plaintiff is a natural person residing in Las Vegas, Clark County, Nevada.
6. Plaintiff is a consumer as that term is defined by the FDCPA.
7. Plaintiff allegedly owes a debt as that term is defined by the FDCPA.
8. Defendant is a debt collector as that term is defined by the FDCPA.
9. Within the last year, Defendant attempted to collect a consumer debt from Plaintiff.
10. Defendant is a collection agency headquartered in Greenville, South Carolina.
11. Defendant is a business entity engaged in the collection of debt within the State of South Carolina.
12. The principal purpose of Defendant's business is the collection of debts allegedly owed to third parties.
13. Defendant regularly collects, or attempts to collect, debts allegedly owed to third parties.
14. During the course of its attempts to collect debts allegedly owed to third parties, Defendant sends to alleged debtors bills, statements, and/or other correspondence, via the mail and/or electronic mail, and initiates contact with alleged debtors via various means of telecommunication, such as by telephone and facsimile.
15. Defendant acted through its agents, employees, officers, members, directors, heirs, successors, assigns, principals, trustees, sureties, subrogees, representatives, and insurers.

FACTUAL ALLEGATIONS

16. Defendant is attempting to collect a consumer debt from Plaintiff, originating from a Bank One loan.
17. The alleged debt at issue arises from transactions for personal, family, and household purposes.
18. In or around November 2014, Defendant began placing collection calls to Plaintiff on Plaintiff's cellular telephone ending in 3332.
19. Defendant calls Plaintiff at an annoying and harassing rate, calling multiple times per week.
20. Plaintiff receives calls from 407-232-7037, which is one of Defendant's telephone numbers.
21. On or around November 10, 2015, Plaintiff spoke to one of Defendant's collectors and told Defendant to stop calling him.
22. Nevertheless, Defendant continued to place collection calls to Plaintiff's cellular telephone number.
23. The debt allegedly owed by Plaintiff originated in 2002.
24. The statute of limitations on a written contract in Nevada is 6 years.
25. Defendant is attempting to collect a debt that is past the statute of limitations.
26. The natural consequences of Defendant's statements and actions was to unjustly condemn and vilify Plaintiff for non-payment of the debt they allegedly owe.
27. The natural consequences of Defendant's statements and actions was to produce an unpleasant and/or hostile situation between Defendant and Plaintiff.

28. The natural consequences of Defendant's statements and actions was to cause Plaintiff mental distress.

DEFENDANT VIOLATED THE FAIR DEBT COLLECTION PRACTICES ACT

29. Defendant violated the FDCPA based on the following:

- a. Defendant violated §1692d of the FDCPA by engaging in conduct that the natural consequences of which was to harass, oppress, and abuse Plaintiff in connection with the collection of an alleged debt when Defendant continued to call Plaintiff at an annoying and harassing rate after Plaintiff told Defendant to stop calling;
- b. Defendant violated §1692d(5) of the FDCPA by causing a telephone to ring or engaging any person in telephone conversation repeatedly or continuously with intent to annoy, abuse, or harass any person at the called number when Defendant continued to call Plaintiffs at an annoying and harassing rate after Plaintiff told Defendants to stop calling; and
- c. Defendant violated §1692e(2)(A) of the FDCPA when Defendant failed to inform Plaintiff that the alleged debt Defendant was attempting to collect was past the statute of limitations.

30. Defendant's acts as described above were done intentionally with the purpose of harassing Plaintiff.

31. As a result of the foregoing violations of the FDCPA, Defendant is liable to the Plaintiff for actual damages, statutory damages, and costs and attorney's fees.

WHEREFORE, Plaintiff, DAVID ESCLUSA, respectfully requests judgment be entered against Defendant, DYNAMIC RECOVERY SOLUTIONS, LLC, for the following:

32. Statutory damages of \$1,000.00 pursuant to the Fair Debt Collection Practices Act, 15 U.S.C. 1692k;
33. Costs and reasonable attorneys' fees pursuant to the Fair Debt Collection Practices Act, 15 U.S.C. 1692k; and
34. Any other relief that this Honorable Court deems appropriate.

DATED: February 9, 2016

RESPECTFULLY SUBMITTED,

By: /s/ Chauntel D. Bland

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